

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

MARION DORTCH,	)	
	)	ED103757
Appellant,	)	
	)	
v.	)	Appeal from the Labor and Industrial
	)	Relations Commission
ZOLTEK CORPORATION,	)	
	)	Commission No. LC-15-02529
and	)	Appeal No. 15-14252 R-A
	)	
DIVISION OF EMPLOYMENT	)	
SECURITY,	)	FILED: June 14, 2016
	)	
Respondents.	)	

Marion Dortch (Claimant) appeals the decision by the Labor and Industrial Relations Commission (Commission), denying him unemployment compensation benefits after his termination by the Zoltek Corporation (Employer) for failing to submit a urine sample for a drug screen, in violation of Employer’s policy. He argues that the Commission’s decision that this constituted misconduct connected with work is unsupported by competent and substantial evidence because Employer failed to establish that it had reasonable suspicion to require Claimant to submit to a drug screen. He also argues that the Commission erred in finding Employer terminated Claimant for misconduct connected with work because Employer’s rule was not fairly or consistently enforced.

AFFIRMED.

Division Two Holds: Given Employer’s policy providing for random drug screens as well as those based on reasonable suspicion, we review only the Commission’s conclusion that Claimant violated the policy by refusing to submit a urine sample and that he was discharged for that violation. The Commission also found that Claimant failed to demonstrate Employer’s policy was not fairly or consistently enforced. The Commission’s decision was supported by substantial and competent evidence on the whole record.

Opinion by: Gary M. Gaertner, Jr., J.  
Philip M. Hess, P.J., and Angela T. Quigless, J., concur.

Attorney for Appellant: Elbert A. Walton, Jr.  
Attorney for Respondents: Thomas E. Berry, Jr., David A. Martin, and Bart A. Matanic

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